

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

PPC BROADBAND, INC. d/b/a PPC,

Plaintiff,

Civil Action No.

5:13-CV-1310 (GLS/DEP)

v.

CORNING OPTICAL COMMUNICATION
RF, LLC,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

HISCOCK & BARCLAY, LLP
One Park Place
300 South State Street
Syracuse, NY 13202

DOUGLAS J. NASH, ESQ.
JOHN D. COOK, ESQ.
JASON C. HALPIN, ESQ.
DENIS J. SULLIVAN, ESQ.

FOR DEFENDANT:

DLA PIPER LLP (US)
500 Eighth Avenue NW
Washington, DC 22004

JOSEPH P. LAVELLE, ESQ.
ANDREW N. STEIN, ESQ.
SUSAN N. ACQUISTA, ESQ.

HARTER, SECREST & EMERY LLP
1600 Bausch & Lomb Place
Rochester, NY 14604

DAVID M. LASCELL, ESQ.
JERAULD E. BRYDGES, ESQ.
ERIKA N.D. STANAT, ESQ.

DAVID E. PEEBLES
CHIEF U.S. MAGISTRATE JUDGE

ORDER

Currently pending before the court in connection with this patent infringement suit is a motion by defendant Corning Optical Communications RF, LLC ("Corning Optical") to stay this action pending decisions from the Patent Trial and Appeal Board ("PTAB") in connection with *inter partes* review ("IPR") proceedings addressing the two patents in suit. Dkt. No. 66. Plaintiff PPC Broadband, Inc. d/b/a as PPC ("PPC") has opposed Corning Optical's motion. Dkt. No. 73.

A hearing was conducted in connection with Corning Optical's motion on October 8, 2014. At the close of argument, I issued an oral decision denying defendant's request for an immediate stay but granting a stay of the action once discovery in the action is complete, pending a final decision in connection with the pending IPR proceedings, while retaining the right to revisit the issue in the interim, particularly after IPR decisions are received in connection with the patents in suit in *PPC Broadband, Inc., d/b/a PPC v. Corning Optical Communications RF, LLC*, No. 5:12-CV-0911 (GLS/DEP). Based upon the parties' written and oral submissions, and the court's bench decision, which is incorporated herein by reference, it is hereby

ORDERED as follows:

(1) Defendant's motion for a stay (Dkt. No. 66) is GRANTED in part, and DENIED in part.

(2) Defendant's request for an immediate stay of this action is DENIED.

(3) This case will progress pursuant to the schedule put in place by the court, under which the parties will have ninety days within which to complete pretrial discovery in the action after a final claim construction decision is issued.

(4) Once discovery in this case is complete, the action will be stayed until a final decision is rendered with regard to the IPR proceedings pending before the PTAB.

(5) Upon the issuance of the last decision in those IPR proceedings by the PTAB, the stay in this action will be lifted, without prejudice to the right of defendant Corning Optical to request an additional stay in the event an appeal is taken by any party to the Federal Circuit, and the parties will have sixty days from that date within which to file dispositive motions in the case.

(6) The court reserves the right at any time prior to receipt of the final PTAB decisions to revisit the question of a stay.

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge

Dated: October 10, 2014
Syracuse, NY